

The Rush County Board of Commissioners met in regular session, Monday, August 27, 2012 with Commissioners, Tom Barnes, Marvin Cole, Ken Masters, Deborah Adams, Auditor, and Leigh Morning, County Attorney in attendance.

Commissioner Tom Barnes called the meeting to order. Marvin Cole made the motion to approve the minutes of the regular meeting of August 13, 2012 meeting as presented. Ken Masters seconded the motion. Motion carried.

COMMUNITY CORRECTIONS

Superior Court Judge Brian Hill appeared before the commissioners to discuss the creating of a Community Corrections Program within the county. Judge Hill stated that this was being supplemented through a grant program which would place a limited burden on the local tax payers.

Judge Hill explained the details of the program and also shared that a location for the program is still being pursued.

Judge Hill shared that the D.O.C. (Department of Corrections) program is for non-violent offenders. This will provide an alternative to incarceration.

The offenders will pay a fee into the Community Corrections Transition Program Fund that was just established by the county council during their recent meeting.

Ken Masters made the motion to adopt Ordinance 2012-12 establishing a Community Corrections Program. Marvin Cole seconded the motion. Motion carried.

ORDINANCE NO. 2012-12

AN ORDINANCE ESTABLISHING A COMMUNITY CORRECTIONS PROGRAM

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF RUSH COUNTY, INDIANA:

I. This Ordinance is adopted pursuant to Ind.Code 11-12-1 and IC 11-12-2.

II. SECTION 1. ESTABLISHMENT OF COMMUNITY CORRECTIONS PROGRAM

A Community Corrections Program is hereby established for Rush County, Indiana, for the purpose of providing preventive services, services to offenders, services to persons charged with a crime or an act of delinquency, services to persons diverted from the criminal or delinquency process, services to persons sentenced to imprisonment or services to victims of crime or delinquency.

III. SECTION 2. ESTABLISHMENT OF COMMUNITY CORRECTIONS ADVISORY BOARD

A Community Corrections Advisory Board (hereinafter "Advisory Board") is established for the purpose of coordinating and operating community corrections programs. Rush County, in consultation with the Advisory Board, shall coordinate or operate community corrections programs for any of the following:

1. the prevention of crime or delinquency;
2. persons sentenced to imprisonment in a county or local penal facility other than a state-owned or operated facility;
3. committed offenders;
4. persons ordered to participate in community corrections programs as a condition of probation.

IV. SECTION 3. COMMUNITY CORRECTIONS PROGRAM CONTENTS

A. The Community Corrections Programs described in Section 2 above may include the following:

1. residential programs;
2. work release programs;
3. house arrest, home detention, and electronic monitoring programs;
4. community service or restitution programs;
5. victim-offender reconciliation programs;
6. jail service programs;
7. jail work crews;
8. community work crews;
9. juvenile alternative programs;
10. day reporting programs;
11. other community corrections programs approved by the Indiana Department of Corrections.

B. The Advisory Board may also coordinate and operate educational, mental health, drug or alcohol abuse counseling, or housing as a part of any of these programs, or supervision services for persons described in Section 2 above.

V. SECTION 4. ACQUISITION OF PROPERTY AND FACILITIES; FUNDING; AND PRIVATE AGENCIES

A. Rush County may acquire premises and facilities for community corrections programs by purchase, lease, or gift, or any other method allowed by law. These facilities and programs may be established and operated under a written contract with existing public or private agencies or institutions.

B. To provide necessary funding for the establishment, operation and coordination of community corrections programs, Rush County may use unexpected funds, use appropriate tax funds, accept gifts, grants and/or subsidies from any lawful source, and apply for and accept federal funds.

C. Private agencies may receive funding from any lawful source, but must comply with all rules and statutes of the Indiana Department of Corrections and the Indiana State Board of Accounts.

VI. SECTION 5. MEMBERSHIP OF THE COMMUNITY CORRECTIONS ADVISORY BOARD

A. The Advisory Board shall consist of the following persons:

1. the County Sheriff or the Sheriff's designee;
2. the Prosecuting attorney or the Prosecuting Attorney's designee;
3. the Director of the County Office of the Division of Family Resources or the Director's designee;
4. the Executive of the most populous municipality in the County or the Executive's designee;
5. Two (2) Judges having criminal jurisdiction, if available, appointed by the Circuit Court Judge or the Judge's designees;
6. One (1) Judge having juvenile jurisdiction appointed by the Circuit Court Judge;
7. One (1) Public Defender or Public Defender's designee, if available, or one (1) attorney with substantial criminal defense practice appointed by the County Executive;

8. One (1) victim or victim's advocate, if available, appointed by the County Executive;

9. One (1) ex-offender, if available, appointed by the County Executive;

10. the following members appointed by the County Executive:

- a. One (1) member of the County Fiscal Body or the member's designee;
- b. One (1) Probation Officer;
- c. One (1) educational administrator;
- d. One (1) representative of a private correctional agency, if such an agency exists in the County;
- e. One (1) mental health administrator, or if there is none available in the County, one (1) psychiatrist, psychologist, or physician;
- f. four (4) lay persons, at least one (1) of whom must be a member of a minority race if a racial minority resides in the County and a member of that minority is willing to serve.

B. Designees of officials designated under Subsection A.1 through A.7 and A.10.a serve at the pleasure of the designating official.

C. Members of the Advisory Board appointed by the County Executive shall be appointed for a term of four (4) years. The criminal defense attorney, the ex-offender, and the victim or victim's advocate shall be appointed for a term of four (4) years. Other members serve only while holding the office or position held at the time of their appointment. The Circuit Court Judge may appoint himself to fill the position of Judge having juvenile jurisdiction if he is otherwise qualified. A vacancy occurring before the expiration of the term of office shall be filled in the same manner of original appointments for the unexpired term. Members may be reappointed.

D. Any member of the Advisory Board may be removed by the County Executive for cause, which includes, but is not limited to the finding of probable cause that the member committed a criminal offense, whether it is for a misdemeanor or a felony offense.

E. The members of the Advisory Board shall, within thirty (30) days after the last initial appointment is made, meet and elect one (1) member as the chairperson and another member as the vice-chairperson, and appoint a secretary-treasurer who need not be a member of the Advisory Board. For purposes of transacting business, at least six (6) members present constitute a quorum. The affirmative votes of at least five (5) of the members present, but not less than a majority of the members present, are required for the Advisory Board to take action. A vacancy in the membership does not impair the right of a quorum to transact business.

F. The County Executive and the County Fiscal Body shall provide necessary assistance and appropriations to the Advisory Board established for Rush County. Appropriations required under this subsection are limited to amounts received from the following sources:

- 1. Indiana Department of Corrections grants;

2. User fees;
3. Other funds as contained within an approved plan.

Additional funds may be appropriated as determined by the County Executive and the County Fiscal Body.

VII. SECTION 6. COMMUNITY CORRECTIONS ADVISORY BOARD; POWERS AND DUTIES; OFFICE

A. The Advisory Board shall:

1. Formulate the community corrections plan and the application for financial aid required by Section 8 herein;
2. Observe and coordinate community corrections programs in Rush County;
3. Make an annual report to the County Fiscal Body and the County Executive containing an evaluation of the effectiveness of the programs receiving financial aid under the provisions of IC 11-22-2 and recommendations for improvement, modification or discontinuance of these programs;
4. Ensure that programs receiving financial aid under the provisions of 11-22-2 comply with the standards adopted by the Indiana Department of Corrections under IC 11-12-2-5; and
5. Recommend to the County Executive the approval or disapproval of contracts with units of local government or nongovernment agencies that desire to participate in the community corrections plan. Before recommending approval of a contract, the Advisory Board must determine that a program is capable of meeting the standards adopted by the Indiana Department of Corrections under IC 11-12-2-5.

B. The Advisory Board shall do the following:

1. Adopt bylaws for the conduct of its own business.
2. Hold a regular meeting at least one (1) time every three (3) months and at other times as needed to conduct all necessary business. Dates of regular meetings shall be established at the first meeting of each year.
3. Comply with the public meeting and notice requirements under IC 5-14-1.5.

C. The Advisory Board may have office space as designated by the County Executive.

VIII. SECTION 7. DIRECTOR, APPOINTMENT AND REMOVAL; POLICIES, PROCEDURES, SCHEDULE FOR EMPLOYEES

A. The Director, if any, of the Community Corrections Program shall be appointed by the Advisory Board, subject to the approval of the County Executive. A Director may be removed for cause by a majority vote of the Advisory Board, subject to the approval of the County Executive.

B. Employees of the Community Corrections Program are employees of Rush County. Employees of the Community Corrections Program shall follow Rush County's Personnel Policies. The salary of the Director and any employees shall be recommended by the Advisory Board, subject to the approval of the County Fiscal Body.

IX. SECTION 8. COMMUNITY CORRECTIONS PLAN; APPLICATION FOR FINANCIAL AID; COMPLIANCE WITH RULES; ANNUAL UPDATING; AMENDMENT OR MODIFICATION; FINAL PLAN

A. If Rush County, Indiana, seeks financial aid under IC 11-12-2, it must apply to the Commissioner of the Indiana Department of Corrections in a manner and form prescribed by the Commissioner. The application must include a Community Corrections Plan that has been approved by the Advisory Board and the County Executive. Rush County may not receive financial aid until its application is approved by the Commissioner of the Indiana Department of Corrections.

B. The Community Corrections Plan must comply with the rules under the provisions of IC 11-12-2-5 and must include:

1. a description of each program for which financial aid is sought;
2. the purpose, objective, administrative structure staffing, and duration of the program;
3. the method to evaluate each component of the program to determine the overall use of Department approved best practices for the program;
4. the program's total operating budget, including all other sources of anticipated income;
5. the amount of community involvement and client participation in the program;
6. the location and description of the facilities that will be used in the program.

C. The Community Corrections Plan must be annually updated, approved by the County Executive, and submitted to the Commissioner.

D. No amendments to or substantial modifications of the approved Community Corrections Plan may be placed in effect until the Indiana Department of Corrections and the County Executive have approved the amendment or modification.

E. A copy of the final plan as approved by the Indiana Department of Corrections shall be made available to the Advisory Board in a timely manner.

X. SECTION 9. ELIGIBILITY FOR FINANCIAL AID; REQUIREMENT OF COMPLIANCE

To remain eligible for financial aid under IC 11-12-2, Rush County must comply with its Community Corrections Plan, and the rules and minimum standards adopted by the Indiana Department of Corrections under the provisions of IC 11-12-2-5.

XI. SECTION 10. ELIGIBILITY FOR FINANCIAL AID; FAILURE TO QUALIFY

Failure of Rush County to qualify for financial aid under IC 11-12-2 does not affect its eligibility for other State funds for correctional purposes otherwise provided by law.

XII. SECTION 11. TERMINATION OF PARTICIPATION IN SUBSIDY PROGRAM

Rush County receiving financial aid under the provisions of IC 11-12-2 may terminate its participation by delivering a resolution of the Board of County Commissioners. Upon withdrawal from the subsidy program, the Board of Commissioners may adopt a resolution stating that it is in the best interests of Rush County that the Advisory Board be dissolved, whereupon the County Commissioners shall pay and discharge any debts or liabilities of the Advisory Board, collect and distribute assets of the Advisory Board under the laws of the State of Indiana, and pay over any proceeds or property to the proper fund.

XIII. SECTION 12. INVALIDITY OF PROVISIONS

Should any section of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any portion thereof, other than the portion so declared to be invalid.

XIV. SECTION 13. REPEAL

A. Ordinance No. 2004-5 is hereby repealed.

B. All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

XV. EFFECTIVE DATE

This Ordinance is effective upon passage.

Adopted this 27th day of August, 2012.

/s/ Thomas H. Barnes
Thomas H. Barnes

/s/ Marvin L. Cole
Marvin L. Cole

/s/ Ken Masters
Ken Masters

ATTEST:

/s/ Deborah C. Adams
Deborah C. Adams
Rush County Auditor

ADA

ADA Compliance Officer Kate Singleton reported that ADA Consultants proposed to begin their next evaluation of services for the highway and conservation club on September 10, 2012.

Singleton discussed the need of another public hearing. Marvin Cole made the motion to set the next public hearing for 7:00 pm on Wednesday, October 24, 2012. Ken Masters seconded the motion. Motion carried. The public hearing will be held in the assembly room located on the first floor of the courthouse.

SOLID WASTE

Solid Waste Director Carole Yeend reported that the Tox-Away Day has been changed to Saturday, September 8, 2012. The time will remain the same 8:00 am to noon.

E.C.D.C.

E.C.D.C. Director Jim Finan introduced Peggy Cenova. Ms. Cenova is East Central Indiana's Director for Small Business Development.

Ms. Cenova shared that her position serves eleven (11) counties. She assist's with the development of new business plans.

Cenova shared that she is looking for local matching dollars. Mayor Pavey has proposed \$2,000.00 to be budgeted. Cenova asked if the county commissioners would also do the same.

Jim Finan shared that E.C.D.C. wants to improve the outreach to Rush County. The Chamber currently has office space to share.

Tom Barnes explained to Ms. Cenova that the public hearing for the county budgets are Wednesday, August 29, 2012. Barnes shared his support and will take his request to the county council for their final review. Barnes deferred to Auditor Deborah Adams. Adams explained that August 29th is only a public hearing of the published budget's. The council will hear department's budgets in September. If the council chooses to insert this line item they will need to reduce another line item elsewhere within the commissioner's budget.

John Saxon asked Ms. Cenova what two (2) businesses they assisted starting in Rush County. Cenova stated that this information is confidential. There is a confidentiality clause with the Small Business Administration that does not allow this information to be shared. Cenova did note that this question is asked a lot.

JAIL

Sheriff Jeff Sherwood reported forty-five (45) inmates incarcerated in the Rush County Jail.

HIGHWAY

Highway Superintendent Jerry Sitton had nothing to report.

AUDITOR

Auditor Deborah Adams received approval by motion on payroll submitted for the period ending August 31, 2012 by Marvin Cole. Ken Masters seconded the motion. Motion carried.

Bi-Weekly claims submitted by August 21, 2012 were approved on a motion by Marvin Cole. Ken Masters seconded the motion.

Adams did further explain the budget hearing and adoption process. Adams stated that the advertised county budget's are available in the auditor's office for public review prior to Wednesdays public hearing.

RUSH MEMORIAL HOSPITAL BOARD APPOINTMENT

Auditor Deborah Adams reported four (4) applications had been received for the soon to be vacate hospital board appointment. The appointment will complete the two (2) year term that will be left open by Linda Levi.

The commissioners instructed Adams to open the applications and read the names before them: Craig Smith, Marvin Cole, Michael Beard and Denny Corn. Ken Masters made the motion to appoint Marvin Cole to the two (2) year board position. Tom Barnes seconded the motion. Motion carried.

PRO LIANCE ENERGY, LLC

County Attorney Leigh Morning discussed the Natural Gas Service Agreement to be approved between Rush County and ProLiance Energy, LLC. Morning noted that she had reviewed the agreement and had afterwards forwarded it to the commissioners and also to Bruce Levi and Mark Bacon who will begin serving in 2013.

Ken Masters made the motion to approve and sign the Natural Gas Service Agreement with ProLiance Energy, LLC. Marvin Cole seconded the motion. Motion carried.

WIND FARMS

Tom Barnes updated those in attendance on himself, Gerald Mohr and Leigh Morning attending a wind farms meeting during the past week with Nordex, Barnes & Thornburg, Henry County Commissioners.

Barnes explained that the time has come for outside representation. Barnes stated that at this date, nothing has been signed. But, please know that things are moving.

Leigh Morning presented a letter to engage the services of Barnes & Thornburg, LLP in connection with the possible development of a windfarm in the County. Ken Masters made the motion to engage the services of Barnes & Thornburg and sign the agreement. Marvin Cole seconded the motion. Motion carried.

Bill Todd commended the commissioners for their professional approach throughout this whole process.

Barnes final comment was that they will not meet until the council is on board.

Motion to adjourn was received from Ken Masters. Tom Barnes seconded the motion. Motion carried.

/s/Tom Barnes

Tom Barnes, Chairman

/s/Marvin Cole

Marvin Cole

/s/Ken Masters

Ken Masters

ATTEST:

/s/Deborah C. Adams

Deborah C. Adams, Auditor